

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BARRY PEARSON )	APPEAL NO. 06-A-2125
from the decision of the Board of Equalization of )	FINAL DECISION
Shoshone County for tax year 2006. )	AND ORDER

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came on for hearing October 26, 2006, in Wallace, Idaho, before Board Member Vernon L. Driver. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant Barry Pearson appeared for himself. Deputy Assessors Casey Stoddard and John Furlin appeared for Respondent Shoshone County. This appeal is taken from a decision of the Shoshone County Board of Equalization modifying the protest of the valuation for taxing purposes of property described as Parcel No. RP49N01E354100A.

**The issue on appeal is the market value of a residential property.**

**The decision of the Shoshone County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$40,280, and the improvements' valuation was reduced to \$148,520 at BOE totaling \$188,800. Appellant requests the land value be left at \$40,000, and the improvements' value be reduced to \$120,000, totaling \$160,000.

The subject property is a 1,560 square foot single-family residence, with an attached garage, two sheds and a large shop building in the Kingston area.

Taxpayer explained that subject has major cracks in the foundation which reduces the value, and personally estimates it would cost \$30,000 to repair. Photographs of the foundation were submitted.

Respondent inspected subject and acknowledged that cracks were visible in the

foundation. Subject's assessed value was lowered at the BOE by \$5,200 to make adjustments for the foundation problem.

Respondent explained a common method of comparison in appraisal is price per square foot above grade. In this evaluation basements nor land size are taken into consideration. Respondent submitted seven sales and based on that evaluation method the prices ranged from \$71 to \$180 per square foot, for an average of \$131 per square foot. Subject is valued at \$121 per square foot.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code Section 63-208. Rules pertaining to market value – Duty of Assessor:  
“Rules promulgated by the State Tax Commission shall require each assessor to find market value for assessment purposes.”

Idaho Code Section 63-201(10) defines market value:

“Market Value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant's case rests on the assumption that subject should be valued less with the foundation problems. Photographs clearly show cracks in the foundation but it is not clear the

affect they have on the subject. No independent or professional estimates of repair costs were submitted for the Board to review. Nor were there any calculations or measurements submitted as to the possible effect on the property's market value.

The County submitted seven comparable sales, similar to subject in location, to support the assessed value.

This Board finds the County Assessor considered the known elements affecting subject's probable market value. The decision of the Board of Equalization is presumed under the law to be correct. This presumption can be overcome by a preponderance of the evidence.

Idaho Code § 63-511(4). Appeals from county board of equalization.

In any appeal taken to the board of tax appeals or the district court pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the board of equalization erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the board of equalization. *A preponderance of the evidence shall suffice to sustain the burden of proof.* The burden of proof shall fall upon the party seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The board of tax appeals or the district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The board of tax appeals or the court may affirm, reverse, modify or remand any order of the board of equalization, and shall grant other relief, invoke such other remedies, and issue such orders in accordance with its decision, as appropriate. *(Emphasis added.)*

This Board finds Appellant did not prove by a preponderance of evidence that the relief

claimed was warranted. Therefore, this Board finds for Shoshone County and will affirm the decision of the Board of Equalization.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Shoshone County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 5th day of March , 2007.